

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

JAMES GLENN BARLOW,

Petitioner,

vs.

TAUESE VA'AOMALA SUNIA, et al.,

Respondents.

CIVIL NO. 18-00423-JAO-KJM

**ORDER DENYING PETITIONER'S  
MOTION FOR CERTIFICATE OF  
APPEALABILITY**

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Petitioner James Glenn Barlow ("Petitioner") asks the Court to certify for appeal under 28 U.S.C. § 1292(b) its order granting Respondents' motion to dismiss, dismissing Respondents, and transferring the petition to the United States District Court for the District of Columbia. ECF Nos. 24, 25. Petitioner's motion is DENIED.

Petitioner has not demonstrated that the Court has jurisdiction to entertain the motion. "It is well- and long-established law that the docketing of a transferred case in an out-of[-]circuit transferee court terminates the jurisdiction of both the transferor court and the corresponding court of appeals." *Gustafson v. Williams*, No. 2:09-cv-01225-KJD-LRL, 2010 WL 4316750, at \*2 & n.1 (D. Nev. Oct. 25,

2010) (citing *NBS Imaging Sys., Inc. v. U.S. Dist. Court for E. Dist. of Cal.*, 841 F.2d 297, 298 (9th Cir. 1988); *Lou v. Belzberg*, 834 F.2d 730, 733 (9th Cir. 1987)) (other citations omitted). Because Petitioner filed the motion after the case was transferred to and docketed in the District of Columbia,<sup>1</sup> the Court no longer has jurisdiction over the case. *See id.*; *see also Perlman v. Jackson Hewitt Inc.*, No. CV-10-051-LRS, 2010 WL 3532681, at \*1 (E.D. Wash. Sept. 10, 2010); *Adab v. U.S. Citizenship & Immigration Servs.*, No. 2:14-cv-04597-CAS(AGRx), 2015 WL 1467180, at \*4-5 (C.D. Cal. Mar. 23, 2015).

Even if it did have jurisdiction, the Court would deny the motion because Petitioner has not demonstrated all three requirements under 28 U.S.C. § 1292(b), including that the Court’s discretion to transfer the petition constitutes a controlling question of law, or that there exists a substantial ground for differing opinion on the issue of the proper respondent for a habeas petition and the appropriateness of applying a traditional personal jurisdiction analysis in the habeas context. *See Couch v. Telescope Inc.*, 611 F.3d 629, 633 (9th Cir. 2010) (“That settled law might be applied differently does not establish a substantial ground for difference of opinion.” (citations omitted)). Petitioner also fails to demonstrate that this case

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<sup>1</sup> The case was docketed in the District of Columbia on November 15, 2019. *See Barlow v. Sunia*, Civ. No. 19-3442 (D.D.C.), ECF No. 25 (Nov. 15, 2019). Petitioner filed the present motion on November 25, 2019 (which is also nearly two weeks after the Court issued its order). ECF Nos. 24, 25.

presents the exceptional situation where allowing an interlocutory appeal will *avoid* protracted and expensive litigation.

The Court therefore DENIES Petitioner's Motion for Certificate of Appealability.

IT IS SO ORDERED.

DATED: Honolulu, Hawai'i, November 27, 2019.



A handwritten signature in black ink, reading "Jill A. Otake".

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Jill A. Otake  
United States District Judge